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Sharon v. Time Magazine in \$50 Million Lawsuit

By Margot Hornblower
Washington Post Staff Writer

NEW YORK, Nov. 13—Former Israeli defense minister Ariel Sharon took on Time magazine in federal court today in a \$50 million lawsuit for what he contends was a "blood libel" by the nation's largest news magazine.

The suit, which has produced more than 10,000 pages of documents and depositions, explores Sharon's role in the Christian Phalangists' 1982 massacre of civilian men, women and children in Lebanon's Sabra and Shatila refugee camps. Sharon was forced to resign after an Israeli commission found that he bore an "indirect responsibility" for the carnage as head of the Israeli Defense Forces, which commanded the Phalangists.

The lawsuit, pitting a cabinet minister of a major U.S. ally against one of the most influential news organizations in the country, is unprecedented.

Time magazine lawyers contend that the suit is an "attempt by a foreign politician to justify his conduct of a war" in the interest of his own political future. Sharon, now minister of industry and commerce, remains a powerful force in Israeli politics and a potential candidate for prime minister.

Sharon was minister of defense from August 1981 until February 1983. He supervised the Israeli invasion of Lebanon, citing border attacks from Palestinian forces.

The jury trial is taking place in the same federal courthouse where retired general William C. Westmoreland is battling CBS in a libel

suit that is reexamining the Vietnam war.

It involves two powerful New York firms and their leading "super-lawyers," Thomas D. Barr of Cravath, Swaine & Moore, who defended IBM in a landmark antitrust case and who represents Time, and Milton S. Gould of Shea & Gould, who has taken on Sharon's case at

no charge. Cravath, Swaine & Moore also is defending CBS against Westmoreland.

The combative Sharon says Time libeled him in a February 1983 cover story on the Israeli commission by reporting that he had "discussed" with Phalangist leaders "the need for the Phalangists to take revenge for the assassination of [Lebanese President-elect] Bashir Gemayel."

According to Time, the discussions took place during a visit by Sharon to the Gemayel family to express his condolences. Time said the information was contained in a secret appendix to the report of the Kahan Commission, the Israeli tribunal that investigated the incidents.

Sharon denies that the discussions ever took place, says he had no idea that the Phalangists would massacre civilians and contends that the secret appendix contains no such information.

The Time article, Gould said in his opening argument today, amounts to accusing a man who is "a hero in his own country" of committing "mass murder."

A "blood libel" refers to the medieval accusations against Jews that they murdered Christian children to obtain blood for religious ceremonies, and Sharon's use of the term

to describe the case illustrates the degree of emotion it has prompted here and in Israel. Sharon also has sued Time in an Israeli court.

Sharon, a burly, silver-haired figure who sat in the front row of the courtroom today, has rounded up a list of character witnesses, including U.S. Sen. Alfonse M. D'Amato (R-N.Y.), Manhattan District Attorney Robert Morgenthau, retired Navy admiral Elmo Zumwalt, author Leon Uris and civil rights activist Bayard Rustin.

Time's attorneys say their case is made more difficult by the refusal of the Israeli government, on secu-

rity grounds, to release the contents of the secret appendix or to allow key Israeli military and intelligence officials to testify.

The Israeli government "has attempted to erect an impregnable wall of silence around its own conduct and Minister Sharon's," Time's lawyers asserted.

The Central Intelligence Agency, the State Department and the National Security Agency have gone to court in Washington, D.C., in an effort to prevent Time's gaining access to sensitive documents.

U.S. District Court Judge Abraham D. Sofaer instructed the jurors today that even if Sharon proves that Time's statements were "both defamatory and false," he must also prove that the magazine acted with "actual malice."

Time attorneys, in a motion to dismiss the case, contended that Sharon was not defamed because "Sharon's reputation has long been that of a bloodthirsty, insubordinate militarist."

In his opening statement, Barr showed slides of newspaper articles from The New York Times, Newsweek and The Washington Post and read references to Sharon's alleged involvement in a 1953 massacre of Jordanian women across the Israeli border.

Time has called Sharon's suit an attempt "to shed his responsibility for the massacre of civilians [at Sabra and Shatila] by an armed force acting at his orders and under his command."

Sharon acknowledged in testimony before the Kahan Commission, according to Time, that the word "revenge" was mentioned in discussions among us" after the Gemayel assassination. But Sharon said the discussions referred to talks among Israelis, not with Phalangists.

Gould said Israeli military officials gave the Phalangists explicit orders not to harm civilians when they entered the camps for a "mopping up" operation against alleged Palestinian terrorists who, the Israelis believed, were hiding in the

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camps and hoarding arms despite the declaration of a cease-fire and the evacuation of the Palestine Liberation Organization.

Gould said he will present evidence that Time's reporter in Jerusalem, who attributed the information about the alleged discussions of revenge between Sharon and the Gemayel family to a "highly reliable source," had, in fact, "contrived, invented and spun" the information.

The reporter, David Halevy, has "a history of inexcusably shoddy reporting . . . and a history of personal bias against Sharon," Gould said.

Sharon's attorneys plan to range far beyond the article in question in an effort to prove that Time has generally shown a "vicious bias" against Israel. They have compiled a list of 150 examples of alleged anti-Israeli reporting over the years.

Gould characterized Time's procedures for reporting, writing and fact-checking as "reckless." The alleged libel is contained in a single paragraph on the fourth page of a Feb. 21, 1983, article headlined "The Verdict Is Guilty: An Israeli Commission Apportions the Blame for Beirut Massacre."

The report was written by William E. Smith in New York on the basis of a dispatch by Harry Kelly, who was then the magazine's Jerusalem bureau chief. Kelly's dispatch, Gould said, referred to a report from Halevy that Sharon, in visiting the Phalangists, had "given

them the feeling" that he "understood" the need for revenge. Smith changed the wording to "discussed," although, Gould said, Halevy has indicated that he did not know whether discussions took place or whether the "feeling" was communicated through "body language."

Although two fact-checkers and a senior editor reviewed the article, no one called Sharon about the allegation, Gould said.

However, Barr, who delivered only the first part of his opening statement today, portrayed Halevy, an Israeli who is a lieutenant colonel in the Israeli Defense Forces and has fought in three wars, as an outstanding journalist. In a file to Time, Halevy wrote that Sharon was a "remarkable military leader . . . a true statesman," Barr said.

"Most politicians would appreciate that sort of bias," he added.

Sharon will be the first witness in the trial.

Special correspondent John Kennedy contributed to this report.